

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1995, each agency shall begin the rulemaking process by 1st filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Arizona Administrative Register.

Under the Administrative Procedure Act (A.R.S. § 41-1001 *et seq.*), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 8. DEPARTMENT OF HEALTH SERVICES FOOD, RECREATIONAL AND INSTITUTIONAL SANITATION

PREAMBLE

1. **Sections Affected**

	<u>Rulemaking Action</u>
R9-8-301	New Section
R9-8-302	New Section
R9-8-303	New Section
R9-8-304	New Section
R9-8-305	New Section
R9-8-306	New Section
R9-8-307	New Section
Article 11	Repeal
R9-8-1111	Repeal
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 36-136(A)(7) and (F)

Implementing statutes: A.R.S. §§ 36-104(1)(b)(i) and 36-136(H)(12)
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Richard Cox, R.E.H.S.
Address:	Department of Health Services Food Safety and Environmental Services 3815 North Black Canyon Highway Phoenix, Arizona 85015
Telephone:	(602) 230-5908
Fax:	(602) 230-5817
4. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The rules mainly have stylistic and grammatical changes to conform with current Governor's Regulatory Review Council and Office of the Secretary of State requirements. A provision for the minimum number of temporary toilet facilities at special events has been proposed.
5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.
6. **The preliminary summary of the economic, small business, and consumer impact:**
 - A. Persons who are directly affected, bear costs, or benefit:
 1. Organizers of special events.
 2. Owners of public restrooms.
 3. Department of Health Services: Responsible for administration and enforcement of temporary toilet requirements at special events and inspection and abatement of nuisances caused by public restrooms.

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4. County Health Departments: Responsible for inspection and abatement of nuisances through delegation agreements.
5. The public benefits from clean restrooms and temporary toilets.

B. Cost/benefit analysis:

1. Department of Health Services: None. There will be no increase in inspection or enforcement responsibilities. Therefore the Department will not be impacted by the proposed rules.
2. Political Subdivisions: Minimal. No mandatory inspections by county health departments are required. The rules give county health departments the authority to require maintenance of public restrooms and a minimum number of portable toilets at special events, and abate nuisances in restrooms and at special events where adequate toilet facilities are not provided.
3. Small business: Minimal. For-profit organizers of special events would pay approximately \$65 per portable toilet rental per 8-hour day. Owners of restrooms are responsible for construction and upkeep.
4. Private and public employment: None.
5. Consumers and public: Consumers and public will have sanitary public restrooms and toilets at special events.
6. State revenues: None.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Richard Cox, R.E.H.S.
Address: Department of Health Services
Food Safety and Environmental Services
3815 North Black Canyon Highway
Phoenix, Arizona 85015
Telephone: (602) 230-5908
Fax: (602) 230-5817

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No oral proceeding is scheduled. A person may submit written comments or a request for an oral proceeding on the proposed rules no later than 5 p.m., October 21, 1996, to the following person:

Name: Richard Cox, R.E.H.S.
Address: Department of Health Services
Food Safety and Environmental Services
3815 North Black Canyon Highway
Phoenix, Arizona 85015
Telephone: (602) 230-5908
Fax: (602) 230-5817

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.

10. Incorporations by reference and their location in the rules:

R9-8-303(A): *Uniform Plumbing Code*, 1994 Edition, published by the International Association of Plumbing and Mechanical Officials, 2001 Walnut Drive South, Walnut, California 90789.

R9-8-303(B): *Uniform Building Code*, 1994 Edition, published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California, 90601.

11. The full text of the rules follows:

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TITLE 9. HEALTH SERVICES

CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL AND INSTITUTIONAL SANITATION

ARTICLE 3. PUBLIC TOILET FACILITIES

Section	
<u>R9-8-301.</u>	<u>Definitions</u>
<u>R9-8-302.</u>	<u>Persons Responsible</u>
<u>R9-8-303.</u>	<u>Constructing and Maintaining a Restroom or Bathroom</u>
<u>R9-8-304.</u>	<u>Common Bath Towel Forbidden</u>
<u>R9-8-305.</u>	<u>Portable Toilets</u>
<u>R9-8-306.</u>	<u>Disposal of Sewage and Refuse</u>
<u>R9-8-307.</u>	<u>Inspection and Enforcement</u>

ARTICLE 11. RESTROOMS

R9-8-1111. Toilet Facilities

ARTICLE 3. PUBLIC TOILET FACILITIES

R9-8-301. Definitions

The terms of this Article have the following meanings:

1. "Bathroom" means a restroom that contains a shower or bathtub.
2. "Department" means the Department of Health Services.
3. "Director" means the Director of the Department of Health Services.
4. "Flood rim" means the edge of a sanitary fixture from which liquid will overflow when the sanitary fixture is filled with liquid beyond its capacity.
5. "Flooded" means a sanitary fixture that is overflowing or filled with sewage to its flood rim.
6. "Lavatory" means a sink or basin for cleansing hands.
7. "Person" means a governmental agency, individual, organization, association, partnership, business, corporation, or company.
8. "Plumbing system" means sanitary fixtures, pipes, and related parts assembled to carry water into a structure and carry sewage out of a structure.
9. "Portable toilet" means a transportable toilet connected to a leakproof tank to receive and store sewage temporarily.
10. "Potable" means water obtained from a source or distribution system that complies with the requirements of the Department of Environmental Quality as provided in 18 A.A.C. 4.
11. "Putrescible" means a solid or semisolid waste that may decompose, decay, spoil, rot, or provide food for insects, rodents, birds, or other pests.
12. "Refuse" means putrescible and nonputrescible solid and semisolid waste, including trash, garbage, or rubbish.
13. "Restroom" means a structure or room containing a lavatory and toilet, or lavatory, toilet, and urinal, available to the patrons of an establishment or governmental agency, and unconnected to dwelling or sleeping quarters.
14. "Sanitary fixture" means a bathtub, floor drain, lavatory, shower, toilet, or urinal connected to a plumbing system.
15. "Sewage" means the liquid waste contained in a sanitary fixture or sanitary fixture drain pipe or any liquid containing putrescible particles, feces, or urine.
16. "Special event" means a group of 100 or more individuals gathered together in lawful assembly for 4 or more hours

in an outdoor area that does not have restroom or bathroom facilities.

17. "Urinal" means an upright basin used by males for urination only.

R9-8-302. Persons Responsible

An owner of a bathroom, restroom, or portable toilet, or a person who administers a special event, shall comply with the provisions of this Article.

R9-8-303. Constructing and Maintaining a Restroom or Bathroom

- A. A plumbing system shall be installed and maintained in compliance with the requirements of the *Uniform Plumbing Code*, 1994 Edition, published by the International Association of Plumbing and Mechanical Officials, 20001 Walnut Drive South, Walnut, California 90789, which is incorporated by reference. Copies of the *Uniform Plumbing Code* are available for viewing at the Secretary of State's Office, Public Services Department, 1700 West Washington, Phoenix, Arizona 85007, and the Department of Health Services, 1740 West Adams, Phoenix, Arizona 85007. This incorporation by reference contains no future editions or amendments.
- B. Ventilation shall be provided in compliance with the requirements of the *Uniform Building Code*, 1994 Edition, published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, which is incorporated by reference. Copies of the *Uniform Building Code* are available for viewing at the Secretary of State's Office, Public Services Department, 1700 West Washington, Phoenix, Arizona 85007, and the Department of Health Services, 1740 West Adams, Phoenix, Arizona 85007. This incorporation by reference contains no future editions or amendments.
- C. An interior floor, wall, ceiling, and the attached accessories in a restroom shall be kept clean, dry, and free of mold, holes, chips, cracks, or flaking. An interior restroom floor and wall joint shall be finished with a smooth sealant or trimmed with a wall base trim strip.
- D. An interior floor, wall, ceiling, and the attached accessories in a bathroom shall be finished with a smooth, waterproof, and washable surface. An interior bathroom floor and wall joint shall be waterproof.
- E. A bathroom or restroom shall be provided with:
 1. Soap available from a dispenser for cleaning hands, and
 2. A heated air blower or paper towels from a dispenser for drying hands.
- F. If a pressurized spray cleaning method is used in a bathroom or restroom:
 1. A floor drain shall be built into the floor and the floor shall be sloped to the floor drain to promote drainage, and
 2. The floor and wall joints shall be waterproof.
- G. A constant supply of toilet paper shall be provided at each toilet from a dispenser mounted within 36 inches of the toilet seat.
- H. The following conditions in a bathroom or restroom are forbidden:
 1. An open window without an insect screen.
 2. A sanitary fixture without potable water under pressure.
 3. A plumbing system leak.
 4. A dirty sanitary fixture, and

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5. A flooded sanitary fixture.

R9-8-304. Common Bath Towel Forbidden

A bath towel provided by an establishment to a patron shall be machine washed with detergent and machine dried before the bath towel is reissued to another person.

R9-8-305. Portable Toilets

- A. Portable toilets and refuse containers shall be used at a special event as follows:

1. One portable toilet and 1 refuse container with matching lid for the 1st 100 people and 1 portable toilet and 1 refuse container with matching lid for each additional 100 people, or portion thereof, shall be provided; and
2. Portable toilets and refuse containers shall be placed within 200 feet of the special event place.

- B. A portable toilet shall be built and maintained to include:

1. A sewage storage tank, toilet seat, toilet, and urinal made of durable, smooth, leakproof, and rustproof materials;
2. Waterproof and durable floor, wall, ceiling, and door materials;
3. A vent pipe 3 inches in diameter connected to the sewage storage tank and extending 6 inches above the roof of the toilet enclosure; and
4. A constant supply of toilet paper from a dispenser installed within 36 inches of each toilet seat.

- C. Sewage and refuse generated at a special event shall be collected and disposed of under R9-8-306(A), (B)(1) and (2), and (D).

R9-8-306. Disposal of Sewage and Refuse

- A. The collection, storage, and treatment of sewage and refuse shall comply with the requirements of the Department of Environmental Quality under:

1. 18 A.A.C. 8, Article 6, and 18 A.A.C. 9, Articles 7 and 8, for sewage; and
2. 18 A.A.C. 8, Article 5, for refuse.

- B. A bathroom or restroom shall be provided with a refuse container designated and maintained as follows:

1. The refuse container shall be durable, leakproof, and waterproof; and
2. The interior of the refuse container shall be kept free of accumulations of putrescible material.

- C. A bathroom or restroom exclusively for female use or a combination male-and-female restroom shall have a refuse container with a matching lid.

- D. An overflowing refuse container is forbidden.

R9-8-307. Inspection and Enforcement

- A. An inspector from the state or local health department, upon presentation of identification, may inspect public toilet facilities to determine compliance with this Article.

- B. If an inspector finds a violation of this Article, the inspector may issue a notice of violation to the owner of a bathroom, restroom, or portable toilet, or the administrator of a special event. A notice of violation shall specifically state the nature of the violation and allow a reasonable time for the violation to be corrected.

- C. If the Director has reasonable cause to believe that a person is operating a bathroom, restroom, portable toilet, or special event in violation of this Article, the Director may order the closure of the bathroom, restroom, portable toilet, or special event by issuing a cease and desist order under A.R.S. § 36-601. Violations of this Article may also be corrected under A.R.S. §§ 36-140, 36-602, 36-603, 36-605, or by any other lawful means.

ARTICLE 11-RESTROOMS

R9-8-1111. Toilet Facilities

All toilet facilities which are made available for use of employees or patrons of the establishment or for the use of the general public shall comply with the following requirements:

1. The pressure and volume shall be sufficient to insure effective flushing of toilets and urinals.
2. Toilets and urinals shall be constructed of vitreous or other approved material, the surface of which is smooth, hard, impervious, and not easily corrodible, shall be of rim flush type, and shall be properly vented and trapped. All joints shall be tight. The construction shall be such as to prevent back siphonage of the toilet or urinal contents and to provide ample flushing action to insure cleanliness. All toilets and urinals shall be kept clean and in good repair.
3. All toilets and urinals shall be located in well-lighted and well-ventilated rooms and shall be conveniently accessible to approved hand-washing facilities. All toilet rooms shall be kept clean and in good repair and provided with an adequate supply of toilet paper.
4. Hand-washing facilities shall comply with the following requirements:
 - a. The lavatory shall be composed of vitreous or other approved material, the surface of which is smooth, hard, impervious, and not readily corrieble. Taps connected with said lavatory shall be so installed as to discharge at least 1 inch above the level at which the lavatory will overflow upon the floor.
 - b. The water supply used in connection with a lavatory shall comply with the requirements of Article 2 of this Chapter.
 - c. Soap in a suitable dispensing container and single-service paper towels or some other approved form of individual towel service shall be provided.